

**Applicant:** Bernalillo County  
Zoning, Building, Planning &  
Environmental Health Department  
111 Union Station St. SE  
Albuquerque, NM 87111

**Property Owner:** Humberto Hernandez  
1710 Harzman Rd. SW  
Albuquerque, NM 87105

**Location:** 1716 Harzman Rd. SW

**Property Size:** .40 acres +/-

**Existing SUP:** Special Use Permit for a  
Contractor's Yard

**Zoning:** R-1 Single-Family Residential

**Recommendation:** Cancellation

**Summary:** The Zoning, Building, Planning & Environmental Health Department proposes cancellation of an existing Special Use Permit for a Contractor's Yard (CSU-40014). Despite authorization of the use predicated on specific Conditions of Approval established by the Board of County Commissioners, as well as subsequent contact from the Zoning Enforcement Office for noncompliance, the requirements for development have never been addressed.

This matter was deferred by the County Planning Commission on July 12, 2006, with a request that the area zoning inspector make face-to-face contact with the owner concerning the pending cancellation request. County staff members spoke with the owner at his residence the following afternoon.

**Staff Contact:** Brennon Williams, Zoning Administrator

**Attachments:**

1. CPC Notice of Decision (July 14, 2006)
2. Letter to owner concerning cancellation (July 13, 2006) & owner's signature of receipt
3. Notification of Decision (August 25, 2004)
4. Violation notice from Zoning Enforcement Office (November 10, 2004)
5. Notice of intent to cancel SUP (March 27, 2006)
6. Site photographs & zone atlas page

CSU-40014      Zoning, Building, Planning & Environmental Health Department request cancellation of a Special Use Permit for a Contractor's Yard on Lot 9, Roys Garden Subdivision, located at 1716 Harzman Rd. SW, zoned R-1, and containing approximately .40 acres. (L-12) (DEFERRED FROM THE JULY 12, 2006, HEARING)

**AREA CHARACTERISTICS & ZONING HISTORY**  
**Surrounding Zoning & Land Uses**

	<b>Zoning</b>	<b>Land use</b>
<b>Site</b>	R-1 with a Special Use Permit for a Contractor's Yard	Contractor's yard operation
<b>North</b>	R-1	Single-family dwelling
<b>South</b>	R-1	Single-family dwelling
<b>East</b>	R-1	Single-family dwelling
<b>West</b>	R-1	Single-family dwelling

## **BACKGROUND**

### **Special Use Permit History & Overview**

On August 25, 2004, the Board of County Commissioners (BCC) authorized a Special Use Permit for a Contractor's Yard for property located at 1716 Harzman Rd. SW. The approval legitimized the existence of a contracting business which had been in operation for 16 years on the site without prior approval. Authorization by the BCC was predicated on six Findings and 12 Conditions, and was granted for a period of five years.

Since approval of the request, no additional steps have been taken by the owner to meet the necessary requirements associated with the permit. Specifically, a revised site plan has not been submitted for review and approval, and related inspections of existing development and uses have not occurred. Additionally, no improvements have been made to the site, such as landscaping buffers or the surfacing of the off-street parking areas.

As is standard policy, the Zoning Enforcement Office notified the owner of deficiencies associated with the property on November 10, 2004 (Attachment 2). A scheduled re-inspection of the site on December 16, 2004, revealed that no progress had been made toward compliance. Most recently, the Zoning Administration Office sent correspondence to the owner concerning the department's intention to cancel the permit, as well as the methods necessary to avoid this action (Attachment 3), but no action was taken to avoid the current proposal.

### **Recent History – July 2006**

As requested by the Planning Commission, the special use permit owner was contacted by county staff members in a final attempt to make the seriousness of the cancellation request known. The Building Manager, Toby Perea, and Zoning Enforcement Manager, Bob Solano, delivered a letter to the owner at his residence on July 13, 2006 (Attachment 2).

During their subsequent conversation with the owner, Mr. Perea and Mr. Solano explained the importance of his attendance at the August hearing, as well as the significance that possible cancellation would have on the uses and activities conducted from the site. Additionally, Mr. Solano reported that the owner indicated that the architect hired to prepare the revised site plan was recently injured in a motorcycle accident, and that the owner would contact the Zoning Enforcement Office in the near future to further explain the steps taken toward compliance. As of the printing deadline, July 20, 2006, no such contact had been made.

### **Subject Site & Surrounding Properties**

The subject lot is located on the south side of Harzman Road, approximately 150 feet west of Goff Boulevard. Adjacent properties are primarily developed for single-family residences, but the lot immediately east of the subject site is governed by a Special Use Permit for a Contractor's Yard (CSU-40013) and includes a residence on the lot. This permit was granted at the same time the subject property received its existing approval, and because this adjacent parcel is also owned by the same individual and is not in compliance with the requirements of its Special Use Permit, it is also being proposed for cancellation at this time.

## **APPLICABLE REGULATIONS & POLICIES**

### **Comprehensive Zoning Ordinance of Bernalillo County Section 18. Special Use Permit Regulations.**

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H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and subject the permit to cancellation pursuant to this section.

#### **1. Procedures for Cancellation:**

- (a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.

- (b) If the Administrator or his designee shall find that any of the conditions of the approved development plan or of the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.
  - (c) In the event that a violation of the approved development plan or of the conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section or proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.
  - (d) Any violation of the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after written notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zone maps by the County Planning Department.
2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization of approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

## ANALYSIS

Conditions of approval are established in connection with Special Use Permits in order to protect the public health, safety and general welfare of the residents of Bern. COUNTY PLANNING COMMISSION  
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PROPOSED CANCELLATION OF CSU-40014 ce. Conditions help property in an orderly, efficient manner, and in conformity

Noncompliance with these safeguards is not only contrary to overall objective of the Special Use Permit, it is contradictory to the spirit and intent of the county's established land-use plans, policies and ordinances. Without fully meeting the stringent requirements associated with the approval, the use cannot continue. Based on the lack of compliance combined with the extra efforts displayed by staff to contact the owner, staff submits this case to the Planning Commission with a recommendation of cancellation.

## Proposed Findings for Cancellation

1. This is a request to cancel an existing Special Use Permit for a Contractor's Yard (CSU-40014) which was authorized by the Board of County Commissioners on August 25, 2004. This approval was predicated on six (6) Findings and 12 Conditions.
2. This matter was deferred by the County Planning Commission on July 12, 2006, with a request that county staff make face-to-face contact with the owner concerning the pending cancellation request.
3. On July 13, 2006, county staff members spoke with the owner at his residence, and provided him with a letter explaining the cancellation proposal and the predicated Conditions of Approval established with the Special Use Permit (CSU-40014).

4. This cancellation action is the result of a violation. Specifically, the owner was required to submit a revised site plan consistent with the Conditions of approval to the Zoning Administrator on or before October 25, 2004, as well as obtain related inspections for building code certifications and other necessary reviews by Bernalillo County staff within a designated six month period. These requirements have never been met.
5. Conditions related to minimizing the overall impact of the use on the surrounding area have not been met. These include requirements for surfacing of the off-street parking area, providing landscaping buffers, and planting of street trees.
6. On November 10, 2004, the Bernalillo County Zoning Enforcement Office notified the property owner of noncompliance with the provisions of CSU-40013. A re-inspection conducted on December 16, 2004, revealed that the necessary corrective actions had not been taken.
7. On March 27, 2006, the Zoning Administrator notified the property owner of the intent to cancel CSU-40013 for noncompliance, pursuant to Section 18. H of the Comprehensive Zoning Ordinance of Bernalillo County.
8. This decision removes the Special Use Permit (CSU-40014) from the property, and reverts the zoning on the site back to the uses and activities allowed, and as limited by, the underlying zoning designation of R-1 Single-Family Residential.

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**RECOMMENDATION:**

Cancellation of CSU-40014.

Brennon Williams  
Zoning Administrator